

Representative Daniel McCay proposes the following substitute bill:

**SERVICE SOFTWARE APPLICATIONS AND
REGISTRATION REQUIREMENTS**

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates regulations and provisions related to services provided over software applications.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a rental network company to register with the Division of Consumer Protection;
- ▶ exempts a rental network company from certain requirements;
- ▶ provides operational requirements for a rental network company;
- ▶ provides insurance requirements for a rental network company;
- ▶ establishes fees for noncompliance of a rental network company;
- ▶ establishes a presumption that a building contractor is an independent contractor;

and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides a coordination clause.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **13-2-1**, as last amended by Laws of Utah 2017, Chapter 98

31 **13-48-102**, as enacted by Laws of Utah 2011, Chapter 357

32 **31A-21-311**, as last amended by Laws of Utah 2003, Chapter 252

33 **31A-22-311**, as last amended by Laws of Utah 1994, Chapter 316

34 **41-1a-214**, as last amended by Laws of Utah 2016, Chapter 356

35 **41-12a-303.2**, as last amended by Laws of Utah 2017, Chapter 416

36 ENACTS:

37 **13-52-101**, Utah Code Annotated 1953

38 **13-52-102**, Utah Code Annotated 1953

39 **13-52-103**, Utah Code Annotated 1953

40 **13-52-201**, Utah Code Annotated 1953

41 **13-52-202**, Utah Code Annotated 1953

42 **13-52-301**, Utah Code Annotated 1953

43 **13-52-302**, Utah Code Annotated 1953

44 **13-52-303**, Utah Code Annotated 1953

45 **13-52-304**, Utah Code Annotated 1953

46 **13-52-305**, Utah Code Annotated 1953

47 **13-52-306**, Utah Code Annotated 1953

48 **13-52-307**, Utah Code Annotated 1953

49 **13-52-401**, Utah Code Annotated 1953

50 **13-52-402**, Utah Code Annotated 1953

51 **13-52-501**, Utah Code Annotated 1953

52 **13-52-502**, Utah Code Annotated 1953

53 **31A-22-323**, Utah Code Annotated 1953

54 **31A-22-324**, Utah Code Annotated 1953

55 **31A-22-325**, Utah Code Annotated 1953

56 **34-53-101**, Utah Code Annotated 1953

57 34-53-102, Utah Code Annotated 1953

58 34-53-201, Utah Code Annotated 1953

59 **Utah Code Sections Affected by Coordination Clause:**

60 34-53-101, Utah Code Annotated 1953

61 34-53-102, Utah Code Annotated 1953

62 34-53-201, Utah Code Annotated 1953



64 *Be it enacted by the Legislature of the state of Utah:*

65 Section 1. Section 13-2-1 is amended to read:

66 **13-2-1. Consumer protection division established -- Functions.**

67 (1) There is established within the Department of Commerce the Division of Consumer
68 Protection.

69 (2) The division shall administer and enforce the following:

70 (a) Chapter 5, Unfair Practices Act;

71 (b) Chapter 10a, Music Licensing Practices Act;

72 (c) Chapter 11, Utah Consumer Sales Practices Act;

73 (d) Chapter 15, Business Opportunity Disclosure Act;

74 (e) Chapter 20, New Motor Vehicle Warranties Act;

75 (f) Chapter 21, Credit Services Organizations Act;

76 (g) Chapter 22, Charitable Solicitations Act;

77 (h) Chapter 23, Health Spa Services Protection Act;

78 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;

79 (j) Chapter 26, Telephone Fraud Prevention Act;

80 (k) Chapter 28, Prize Notices Regulation Act;

81 (l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

82 (m) Chapter 34, Utah Postsecondary Proprietary School Act;

83 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;

84 (o) Chapter 39, Child Protection Registry;

85 (p) Chapter 41, Price Controls During Emergencies Act;

86 (q) Chapter 42, Uniform Debt-Management Services Act;

87 (r) Chapter 49, Immigration Consultants Registration Act; [~~and~~]

88 (s) Chapter 51, Transportation Network Company Registration Act[-]; and

89 (t) Chapter 52, Rental Network Company Registration Act.

90 Section 2. Section **13-48-102** is amended to read:

91 **13-48-102. Definitions.**

92 As used in this chapter:

93 (1) "Motor vehicle license cost recovery fee" means a fee or charge that may be
94 separately stated and charged on the short-term motor vehicle lease or rental contract in a
95 motor vehicle lease or rental transaction originating in this state to recover the costs incurred by
96 a motor vehicle rental company to license, title, register, obtain license plates for, and inspect
97 rental motor vehicles.

98 (2) (a) "Motor vehicle rental company" means any person or organization in the
99 business of renting motor vehicles to the public.

100 (b) "Motor vehicle rental company" does not include a rental network company, as
101 defined in Section 13-52-102.

102 Section 3. Section **13-52-101** is enacted to read:

103 **CHAPTER 52. RENTAL NETWORK COMPANY REGISTRATION ACT**

104 **Part 1. General Provisions**

105 **13-52-101. Title.**

106 This chapter is known as "Rental Network Company Registration Act."

107 Section 4. Section **13-52-102** is enacted to read:

108 **13-52-102. Definitions.**

109 As used in this chapter:

110 (1) (a) "Authorized driver" means the renter of a private motor vehicle.

111 (b) "Authorized driver" includes:

112 (i) the renter's spouse, if the spouse is a licensed driver satisfying the rental network
113 company's minimum age requirement;

114 (ii) the renter's employer or coworker, if engaged in business activity with the renter
115 and if licensed drivers satisfying the rental network company's minimum age requirement;

116 (iii) a person who operates the vehicle during an emergency situation;

117 (iv) a person who operates the vehicle while parking the vehicle at a commercial
118 establishment; or

119 (v) a person expressly listed by the rental network company on the rental agreement as
120 an authorized driver.

121 (2) "Blanket insurance policy" means the same as that term is defined in Section
122 31A-1-301.

123 (3) "Division" means the Division of Consumer Protection within the Department of
124 Commerce.

125 (4) (a) "Motor vehicle" means a self-propelled vehicle that:

126 (i) is designed for use upon a highway;

127 (ii) has a gross weight rating of 10,000 pounds or less;

128 (iii) is not used for the commercial delivery of goods or materials; and

129 (iv) is not used for the commercial transportation of goods or materials.

130 (b) "Motor vehicle" does not include:

131 (i) an off-highway vehicle as defined in Section 41-22-2;

132 (ii) a traction engine;

133 (iii) a road roller;

134 (iv) a farm tractor;

135 (v) a tractor crane;

136 (vi) a power shovel;

137 (vii) a well driller; or

138 (viii) a vehicle:

139 (A) propelled by electric power obtained from overhead wires; and

140 (B) not operated upon rails.

141 (5) (a) "Private motor vehicle" means a motor vehicle that:

142 (i) is currently registered;

143 (ii) an individual owns; and

144 (iii) if the motor vehicle is required to be insured under Title 41, Chapter 12a, Financial

145 Responsibility of Motor Vehicle Owners and Operators Act, an individual insures under a

146 personal motor vehicle liability insurance policy insuring:

147 (A) the individual; or

148 (B) the individual and individuals residing in the same household as the individual.

149 (b) "Private motor vehicle" does not include a motor vehicle with fewer than four

150 wheels.

151 (6) "Private vehicle rental" means the use of a private motor vehicle:

152 (a) by a person other than the private motor vehicle's owner; and

153 (b) through a software application.

154 (7) "Rental agreement" means any written agreement stating the terms and conditions
155 governing the use of a private motor vehicle provided by a rental network company through a
156 software application.

157 (8) "Rental network company" means an entity that:

158 (a) uses a software application to connect a renter to a private motor vehicle; and

159 (b) does not own or lease a private motor vehicle used in a private vehicle rental.

160 (9) "Rental period" means the period of time:

161 (a) beginning when an authorized driver takes possession and control of a private
162 motor vehicle that the renter rents through a software application; and

163 (b) ending when:

164 (i) (A) the rental vehicle owner or rental vehicle owner's designee retrieves the private
165 motor vehicle;

166 (B) the renter returns the private motor vehicle to a location upon which the rental
167 vehicle owner and the renter agree; or

168 (C) the renter returns the private motor vehicle to a location the rental network
169 company designates; and

170 (ii) (A) the time period established in the rental agreement expires;

171 (B) the renter verifiably communicates to the rental network company or rental vehicle
172 owner that the renter considers the rental period terminated; or

173 (C) the rental vehicle owner or the rental network company takes possession and
174 control of the private motor vehicle.

175 (10) "Rental vehicle owner" means an individual who:

176 (a) owns and registers a private motor vehicle that the individual makes available for
177 rent through a rental network company's software application; and

178 (b) receives compensation in exchange for renting the individual's private motor
179 vehicle.

180 (11) "Renter" means a person who rents a rental vehicle owner's private motor vehicle:

- 181 (a) through a software application; and
- 182 (b) for the purpose of allowing an authorized driver to possess and control the private
- 183 motor vehicle during the rental period.

184 (12) "Software application" means an Internet-connected software platform, including
 185 a mobile application, that a rental network company uses to:

- 186 (a) connect a rental vehicle owner to a renter; and
- 187 (b) process a renter's request to rent a rental vehicle owner's private motor vehicle.

188 Section 5. Section **13-52-103** is enacted to read:

189 **13-52-103. Scope.**

190 A rental network company or a rental vehicle owner is not subject to:

- 191 (1) Title 13, Chapter 48, Motor Vehicle Rental Company Disclosure Act; or
- 192 (2) the provisions of Section [31A-22-312](#) or [31A-22-314](#).

193 Section 6. Section **13-52-201** is enacted to read:

194 **Part 2. Division Oversight of Rental Network Companies**

195 **13-52-201. Registration of a rental network company.**

196 (1) A person may not operate as a rental network company in this state, unless the
 197 person registers with the division in accordance with Subsection (2).

198 (2) The division shall register a person to operate as a rental network company if the
 199 person:

- 200 (a) demonstrates to the division that the person:
 - 201 (i) meets the definition of a rental network company under Section [13-52-102](#);
 - 202 (ii) has a registered agent in accordance with Section [13-52-301](#);
 - 203 (iii) has prepared a disclosure in accordance with Section [13-52-305](#);
 - 204 (iv) has, if applicable, a method for collecting a rental rate in accordance with Section
 - 205 [13-52-307](#); and
 - 206 (v) has insurance in accordance with the provisions described in Part 4, Insurance; and
- 207 (b) pays a registration fee in an amount determined by the division in accordance with
- 208 Section [63J-1-504](#).

209 (3) A rental network company registration described in Subsection (2) is:

- 210 (a) valid for one year after the day on which the rental network company registers with
- 211 the division; and

212 (b) renewable if the division determines that the person complies with the requirements
213 for a rental network company described in this chapter.

214 Section 7. Section **13-52-202** is enacted to read:

215 **13-52-202. Division audits of rental network companies.**

216 The division may audit the records of a rental network company to ensure compliance
217 with the provisions of this chapter:

218 (1) no more than twice per year;

219 (2) at a location agreed to by the division and the rental network company; and

220 (3) notwithstanding Subsection (1), at any time to investigate a complaint.

221 Section 8. Section **13-52-301** is enacted to read:

222 **Part 3. Operating Requirements**

223 **13-52-301. Agent for service of process requirement.**

224 A rental network company shall maintain an agent for service of process in the state and
225 notify the division of the name and address of the agent.

226 Section 9. Section **13-52-302** is enacted to read:

227 **13-52-302. Facilitating a motor vehicle rental.**

228 For each motor vehicle of which a rental network company facilitates a rental, the rental
229 network company shall:

230 (1) require that the vehicle is a private motor vehicle;

231 (2) provide the rental vehicle owner with suitable proof of compliance with the
232 insurance requirements of this chapter; and

233 (3) require that the motor vehicle comply with the minimum financial responsibility
234 requirements of the state in which the vehicle is registered.

235 Section 10. Section **13-52-303** is enacted to read:

236 **13-52-303. Rental network company equipment -- Indemnification.**

237 A rental network company shall:

238 (1) to the extent necessary for the motor vehicle to be used in a private vehicle rental,
239 facilitate the installation, operation, and maintenance of the rental network company's own
240 signage and computer hardware and software in the motor vehicle; and

241 (2) indemnify and hold harmless the rental vehicle owner for:

242 (a) the cost of damage to, or theft of, equipment the rental network company installs,

243 operates, and maintains under Subsection (1); and

244 (b) any damage the installation, operation, or maintenance of equipment described in
245 Subsection (1) causes to the motor vehicle.

246 Section 11. Section **13-52-304** is enacted to read:

247 **13-52-304. Records.**

248 A rental network company shall:

249 (1) collect, maintain, and make available, at the cost of the rental network company, to
250 any government agency as required by law:

251 (a) information regarding the rental vehicle owner's primary motor vehicle liability
252 insurer;

253 (b) information regarding the renter's primary motor vehicle, excess, or umbrella
254 insurer; and

255 (c) the following information pertaining to an incident that occurs during a rental
256 period:

257 (i) verifiable records of the rental period for the motor vehicle involved in the incident;

258 (ii) to the extent electronic equipment for monitoring the following information is
259 installed in the motor vehicle, verifiable electronic records of the time in relation to initial and
260 final locations of the motor vehicle; and

261 (iii) if an insurance claim is with a blanket insurer, information relevant to the claim,
262 including a rental network company payment related to an accident, any damage, or an injury;
263 and

264 (2) maintain a record of:

265 (i) each rental, for a minimum of five years after the day on which a rental period ends;
266 and

267 (ii) all information in the rental network company's possession regarding a rental
268 vehicle owner for a minimum of five years after the day on which the rental vehicle owner last
269 made a private motor vehicle available for private vehicle rental through the rental network
270 company.

271 Section 12. Section **13-52-305** is enacted to read:

272 **13-52-305. Disclosure requirements.**

273 (1) Before a private motor vehicle is made available for use through a software

274 application, the rental network company shall disclose to the owner of the private motor
275 vehicle:

276 (a) a description of the insurance coverage the rental network company provides under
277 Part 4, Insurance;

278 (b) that a rental vehicle owner's personal motor vehicle insurance policy may exclude
279 any and all coverage for loss arising during the rental period, including physical damage to the
280 rental vehicle owner's private motor vehicle;

281 (c) that a rental vehicle owner's personal motor vehicle liability insurer has the right to
282 notify an insured that the personal motor vehicle liability insurer does not have a duty to defend
283 or indemnify a person for liability for loss that occurs during a private vehicle rental;

284 (d) that the rental network company's blanket policy may not provide coverage outside
285 of the private vehicle rental;

286 (e) that, if the private motor vehicle the rental vehicle owner makes available for
287 private vehicle rental has a lien against the private motor vehicle, the rental vehicle owner is
288 required to notify the lienholder that the rental network company is using the private motor
289 vehicle to provide private vehicle rentals; and

290 (f) that using a private motor vehicle against which there is a lien in a private vehicle
291 rental may violate the rental vehicle owner's contract with the lienholder.

292 (2) Before a renter's first operation of a private motor vehicle through a software
293 application, the rental network company using the software application shall disclose to the
294 renter the information described in Subsections (1)(b) through (d).

295 Section 13. Section **13-52-306** is enacted to read:

296 **13-52-306. Transactional information provided to a renter.**

297 (1) For each private vehicle rental transaction made through a software application, the
298 rental network company shall provide the rental agreement to the renter at the time of the
299 rental.

300 (2) Within 24 hours after the end of a rental period, the rental company that facilitated
301 the rental shall transmit an electronic receipt to the renter that lists:

302 (a) the dates and times indicating the beginning and end of the rental period;

303 (b) the total number of miles driven during the rental period; and

304 (c) an itemization of the total rental rate the renter paid, if any.

305 Section 14. Section **13-52-307** is enacted to read:

306 **13-52-307. Collection of funds.**

307 A rental network company may collect, on behalf of a rental vehicle owner, a rental rate
308 for a private vehicle rental if the rental network company:

309 (1) posts the method for calculating the rental rate on the rental network company's
310 software application;

311 (2) permits a rental vehicle owner to set the rental rate for the rental vehicle owner's
312 private motor vehicle; and

313 (3) allows a renter the option to obtain an estimated rental rate for a private vehicle
314 rental before the renter reserves a private vehicle rental.

315 Section 15. Section **13-52-401** is enacted to read:

316 **Part 4. Insurance**

317 **13-52-401. Insurance requirements.**

318 (1) A rental network company shall maintain a blanket insurance policy that, during a
319 rental period:

320 (a) covers, on a primary basis:

321 (i) an authorized driver; and

322 (ii) an occupant of the private motor vehicle; and

323 (b) includes:

324 (i) liability coverage for a minimum amount of \$1,000,000 per occurrence;

325 (ii) personal injury protection to the extent required under Sections [31A-22-306](#)
326 through [31A-22-309](#);

327 (iii) uninsured motorist coverage in accordance with Section [31A-22-305](#); and

328 (iv) underinsured motorist coverage in accordance with Section [31A-22-305.3](#).

329 (2) A rental network company shall maintain a blanket insurance policy that:

330 (a) covers, on a primary basis, the use of a private motor vehicle while in the custody
331 of the rental network company, including use by an agent, employee, director, officer, or assign

332 of the rental network company; and

333 (b) includes:

334 (i) liability coverage in a minimum amount, per occurrence, of:

335 (A) \$50,000 to any one individual;

- 336 (B) \$100,000 to all individuals; and
- 337 (C) \$30,000 for property damage;
- 338 (ii) personal injury protection to the extent required under Sections [31A-22-306](#)
- 339 through [31A-22-309](#);
- 340 (iii) uninsured motorist coverage in accordance with Section [31A-22-305](#); and
- 341 (iv) underinsured motorist coverage in accordance with Section [31A-22-305.3](#).

342 Section 16. Section **13-52-402** is enacted to read:

343 **13-52-402. Coordination of insurance coverage -- Notification.**

344 (1) A blanket insurance policy described in Subsection [13-52-401\(1\)](#) is:

345 (a) primary with respect to any other insurance available to the rental vehicle owner;

346 and

347 (b) secondary with respect to any other insurance available to the renter, authorized
348 driver, or occupant of the private motor vehicle.

349 (2) A blanket insurance policy under Subsection [13-52-401\(2\)](#) is primary with respect
350 to any other insurance available to the rental vehicle owner.

351 (3) A rental network company shall notify the rental vehicle owner's personal motor
352 vehicle liability insurer of a dispute described in Subsection [31A-22-325\(3\)](#) within 10 business
353 days after the day on which the rental network company became aware of the dispute.

354 Section 17. Section **13-52-501** is enacted to read:

355 **Part 5. Miscellaneous**

356 **13-52-501. Violations.**

357 The division may fine a rental network company up to \$500 for each violation of this
358 chapter.

359 Section 18. Section **13-52-502** is enacted to read:

360 **13-52-502. Non-preemption clause.**

361 This chapter does not supersede a municipal, county, or local government regulation
362 regarding a rental network company, including a rental network company facilitating a private
363 vehicle rental at an airport.

364 Section 19. Section **31A-21-311** is amended to read:

365 **31A-21-311. Group and blanket insurance.**

366 (1) (a) (i) Except under Subsection (1)(d), an insurer issuing a group insurance policy

367 other than a blanket insurance policy shall, as soon as practicable after the coverage is
368 effective, provide a certificate for each member of the insured group, except that only one
369 certificate need be provided for the members of a family unit.

370 (ii) The certificate required by this Subsection (1) shall:

371 (A) provide the exact name of the insurer;

372 (B) state the state of domicile of the insurer; and

373 (C) contain a summary of the essential features of the insurance coverage, including:

374 (I) any rights of conversion to an individual policy;

375 (II) in the case of group life insurance, any continuation of coverage during total
376 disability; and

377 (III) in the case of group life insurance, the incontestability provision.

378 (iii) Upon receiving a written request, the insurer shall inform any insured how the
379 insured may inspect, during normal business hours at a place reasonably convenient to the
380 insured:

381 (A) a copy of the policy; or

382 (B) a summary of the policy containing all the details that are relevant to the certificate
383 holder.

384 (b) The commissioner may by rule impose a requirement similar to Subsection (1)(a)
385 on any class of blanket insurance policies for which the commissioner finds that the group of
386 persons covered is constant enough for that type of action to be practicable and not
387 unreasonably expensive.

388 (c) (i) A certificate shall be provided in a manner reasonably calculated to bring the
389 certificate to the attention of the certificate holder.

390 (ii) The insurer may deliver or mail a certificate:

391 (A) directly to the certificate holders; or

392 (B) in bulk to the policyholder to transmit to certificate holders.

393 (iii) An affidavit by the insurer that the insurer mailed the certificates in the usual
394 course of business creates a rebuttable presumption that the insurer has mailed the certificate
395 to:

396 (A) a certificate holder; or

397 (B) a policyholder as provided in Subsection (1)(c)(ii)(B).

398 (d) The commissioner may by rule or order prescribe substitutes for delivery or mailing
399 of certificates that are reasonably calculated to inform a certificate holder of the certificate
400 holder's rights, including:

- 401 (i) booklets describing the coverage;
- 402 (ii) the posting of notices in the place of business; or
- 403 (iii) publication in a house organ.

404 (2) Unless a certificate or an authorized substitute has been made available to the
405 certificate holder when required by this section, an act or omission forbidden to or required of
406 the certificate holder by the certificate after the coverage has become effective as to the
407 certificate holder, other than intentionally causing the loss insured against or failing to make
408 required contributory premium payments, may not affect the insurer's obligations under the
409 insurance contract.

410 (3) (a) As used in this Subsection (3):

411 (i) "Authorized driver" means the same as that term is defined in Section 13-52-102.

412 (ii) "Private motor vehicle" means the same as that term is defined in Section
413 13-52-102.

414 (iii) "Rental network company" means the same as that term is defined in Section
415 13-52-102.

416 (iv) "Rental period" means the same as that term is defined in Section 13-52-102.

417 (b) (i) A blanket insurance policy that a rental network company maintains in
418 accordance with Subsection 13-52-401(1) shall:

419 (A) identify the rental network company as the named insured;

420 (B) include a provision that provides coverage, without prior notice to the insurer, for
421 all private motor vehicles during the rental period;

422 (C) include a provision that claims will be adjusted in accordance with Section
423 31A-26-303; and

424 (D) include a provision that the vehicles' authorized drivers and occupants are included
425 as insureds under the policy to the same extent that the authorized drivers and occupants would
426 be insureds under a private passenger motor vehicle policy.

427 (ii) A blanket insurance policy that a rental network company maintains in accordance
428 with Subsection 13-52-401(2) shall:

- 429 (A) identify the rental network company as the named insured;
- 430 (B) include a provision that provides primary coverage, without prior notice to the
- 431 insurer, for all private motor vehicles in the custody of the rental network company; and
- 432 (C) include a provision that claims will be adjusted pursuant to Section [31A-26-303](#).

433 Section 20. Section **31A-22-311** is amended to read:

434 **31A-22-311. Definitions.**

435 As used in Sections [31A-22-312](#) and [31A-22-314](#):

436 (1) "Authorized driver" means the person to whom the vehicle is rented and includes:

437 (a) his spouse if a licensed driver satisfying the rental company's minimum age
438 requirement;

439 (b) his employer or coworker if engaged in business activity with the renter and if they
440 are licensed drivers satisfying the rental company's minimum age requirement;

441 (c) any person who operates the vehicle during an emergency situation;

442 (d) any person who operates the vehicle while parking the vehicle at a commercial
443 establishment; or

444 (e) any person expressly listed by the rental company on the rental agreement as an
445 authorized driver.

446 (2) "Damage" means any damage or loss to the rented vehicle resulting from a
447 collision, including loss of use and any costs and expenses incident to the damage or loss.

448 (3) "Rental agreement" means any written agreement stating the terms and conditions
449 governing the use of a private passenger motor vehicle provided by a rental company.

450 (4) (a) "Rental company" means any person or organization in the business of
451 providing private passenger motor vehicles to the public.

452 (b) "Rental company" does not include a rental network company, as defined in Section
453 [13-52-102](#).

454 (5) "Renter" means any person or organization obtaining the use of a private passenger
455 motor vehicle from a rental company under the terms of a rental agreement.

456 Section 21. Section **31A-22-323** is enacted to read:

457 **31A-22-323. Definitions.**

458 As used in Sections [31A-22-234](#) and [31A-22-235](#):

459 (1) "Commercial vehicle" means the same as that term is defined in Section [41-1a-102](#).

- 460 (2) "Private motor vehicle" means the same as that term is defined in Section
- 461 13-52-102.
- 462 (3) "Private vehicle rental" means the same as that term is defined in Section
- 463 13-52-102.
- 464 (4) "Rental network company" means the same as that term is defined in Section
- 465 13-52-102.
- 466 (5) "Rental period" means the same as that term is defined in Section 13-52-102.
- 467 (6) "Rental vehicle owner" means the same as that term is defined in Section
- 468 13-52-102.
- 469 (7) "Renter" means the same as that term is defined in Section 13-52-102.
- 470 (8) "Software application" means the same as that term is defined in Section
- 471 13-52-102.

472 Section 22. Section **31A-22-324** is enacted to read:

473 **31A-22-324. Participation in a private vehicle rental.**

474 (1) An insurer that issues a motor vehicle related insurance policy may, during a

475 private vehicle rental, exclude any and all coverage that may otherwise be afforded to the rental

476 vehicle owner under the personal motor vehicle liability insurer's policy.

477 (2) A motor vehicle required to be insured under Section 41-12a-301 is not a

478 commercial vehicle solely because the motor vehicle's owner makes the motor vehicle

479 available for rent through a software application, unless:

480 (a) the private vehicle rental fails to comply with the requirements of a private vehicle

481 rental as described in Title 13, Chapter 52, Rental Network Company Registration Act;

482 (b) the rental vehicle owner or the rental network company knowingly allows a renter

483 to use the private motor vehicle as a commercial vehicle during the private vehicle rental; or

484 (c) the rental vehicle owner, in combination with all individuals residing in the same

485 household as the rental vehicle owner, uses a software application, or combination of software

486 applications, to rent, or make available for rent, more than four motor vehicles at one time.

487 Section 23. Section **31A-22-325** is enacted to read:

488 **31A-22-325. Private vehicle rental liability.**

489 (1) Notwithstanding any other provision of law or any provision in a rental vehicle

490 owner's personal motor vehicle liability insurance policy, in the event of a loss or injury that

491 occurs during the rental period or while the private motor vehicle is under the control of a
492 rental network company, the rental network company is the owner of the vehicle under any
493 statute that may impose liability upon an owner of a private passenger motor vehicle solely
494 based on ownership.

495 (2) A rental network company shall retain liability described in Subsection (1)
496 regardless of any inadvertent lapse in the blanket policy under which the rental network
497 company is insured.

498 (3) An insurer providing blanket liability insurance to a rental network company in
499 accordance with Section 13-52-401 is liable for a claim in which a dispute exists regarding the
500 person that was in control of the vehicle when the loss occurred giving rise to the claim.

501 (4) If it is determined that a rental vehicle's owner was in control of the private motor
502 vehicle at the time of a loss giving rise to a claim, the rental vehicle owner's personal motor
503 vehicle liability insurer shall indemnify the rental network company's blanket insurer, to the
504 extent of the personal motor vehicle liability insurer's obligation under the applicable insurance
505 policy.

506 (5) Subject to the provisions of Subsections (3) and (4), if a rental vehicle owner or the
507 rental vehicle owner's personal motor vehicle insurer is named as the defendant in a civil action
508 for a loss or injury that occurs:

509 (a) during the rental period, the rental network company's blanket liability insurance
510 insurer under Subsection 13-52-401(1) has the duty to defend and indemnify the rental vehicle
511 owner and rental vehicle owner's personal motor vehicle liability insurer; or

512 (b) while the private motor vehicle is under the control of a rental network company,
513 the rental network company's blanket liability insurance insurer under Subsection 13-52-401(2)
514 has the duty to defend and indemnify the rental vehicle owner and rental vehicle owner's
515 personal motor vehicle liability insurer.

516 Section 24. Section 34-53-101 is enacted to read:

517 **CHAPTER 53. BUILDING SERVICE NETWORK COMPANY ACT**

518 **Part 1. General Provisions**

519 **34-53-101. Title.**

520 This chapter is known as "Building Service Network Company Act."

521 Section 25. Section 34-53-102 is enacted to read:

522 **34-53-102. Definitions.**

523 As used in this chapter:

524 (1) (a) "Building service" means a maintenance, repair, or installation service, in or
525 around a building or residence, that costs \$3,000 or less.

526 (b) "Building service" includes:

527 (i) cleaning or janitorial services;

528 (ii) furniture assembly, installation, moving, or delivery services;

529 (iii) landscaping;

530 (iv) home repair services; and

531 (v) services similar to the services described in Subsections (1)(b)(i) through (iv).

532 (2) "Building service contractor" means a person who enters into an agreement with a
533 building service network company to use the building service network company's software
534 platform to connect with and receive requests from persons seeking a building service.

535 (3) "Building service network company" means an entity that:

536 (a) uses an Internet-connected software platform, including a mobile application, to
537 connect a building service contractor to a person seeking a building service; and

538 (b) charges a building service contractor or person seeking building services a fee to
539 use the software platform described in Subsection (3)(a).

540 Section 26. Section **34-53-201** is enacted to read:

541 **Part 2. Employment Status**

542 **34-53-201. Independent contractor presumption.**

543 (1) A building service contractor may affiliate with a building service network
544 company as an independent contractor or as an employee.

545 (2) (a) There is a presumption that a building service contractor who affiliates with a
546 building service network company is an independent contractor, unless there is clear and
547 convincing evidence that the parties intended the building service contractor to be an employee.

548 (b) The presumption described in Subsection (2)(a) extends to each act the building
549 service contractor performs in connection with a request for a building service placed through
550 the building service network company's software platform.

551 Section 27. Section **41-1a-214** is amended to read:

552 **41-1a-214. Registration card to be signed, carried, and exhibited.**

553 (1) A registration card shall be signed by the owner in ink in the space provided.

554 (2) A registration card shall be carried at all times in the vehicle to which it was issued.

555 (3) The person driving or in control of a vehicle shall display the registration card upon
556 demand of a peace officer or any officer or employee of the division.

557 (4) For a vehicle owned by a rental company, as defined in Section 31A-22-311, a
558 person driving or in control of the vehicle may display the vehicle's rental agreement, as
559 defined in Section 31A-22-311, in place of a registration card for compliance with Subsection
560 (3).

561 (5) For a vehicle being used in connection with a private vehicle rental, as defined in
562 Section 13-52-102, a person driving or in control of the vehicle may display the vehicle's rental
563 agreement, as defined in Section 13-52-102, in place of a registration card for compliance with
564 Subsection (3).

565 [~~5~~] (6) A violation of this section is an infraction.

566 Section 28. Section 41-12a-303.2 is amended to read:

567 **41-12a-303.2. Evidence of owner's or operator's security to be carried when**
568 **operating motor vehicle -- Defense -- Penalties.**

569 (1) As used in this section:

570 (a) "Division" means the Motor Vehicle Division of the State Tax Commission.

571 (b) "Registration materials" means the evidences of motor vehicle registration,
572 including all registration cards, license plates, temporary permits, and nonresident temporary
573 permits.

574 (2) (a) (i) A person operating a motor vehicle shall:

575 (A) have in the person's immediate possession evidence of owner's or operator's
576 security for the motor vehicle the person is operating; and

577 (B) display it upon demand of a peace officer.

578 (ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is
579 operating:

580 (A) a government-owned or leased motor vehicle; or

581 (B) an employer-owned or leased motor vehicle and is driving it with the employer's
582 permission.

583 (iii) A person operating a vehicle that is owned by a rental company, as defined in

584 Section [31A-22-311](#), may comply with Subsection (2)(a)(i) by having in the person's
585 immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section
586 [31A-22-311](#).

587 (iv) A person operating a vehicle in connection with a private vehicle rental, as defined
588 in Section [13-52-102](#), may comply with Subsection (2)(a)(i) by having in the person's
589 immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section
590 [13-52-102](#).

591 (b) Evidence of owner's or operator's security includes any one of the following:

592 (i) a copy of the operator's valid:

593 (A) insurance policy;

594 (B) insurance policy declaration page;

595 (C) binder notice;

596 (D) renewal notice; or

597 (E) card issued by an insurance company as evidence of insurance;

598 (ii) a certificate of insurance issued under Section [41-12a-402](#);

599 (iii) a certified copy of a surety bond issued under Section [41-12a-405](#);

600 (iv) a certificate of the state treasurer issued under Section [41-12a-406](#);

601 (v) a certificate of self-funded coverage issued under Section [41-12a-407](#); or

602 (vi) information that the vehicle or driver is insured from the Uninsured Motorist
603 Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured
604 Motorist Identification Database Program.

605 (c) A card issued by an insurance company as evidence of owner's or operator's
606 security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or
607 operator's address on the card.

608 (d) (i) A person may provide to a peace officer evidence of owner's or operator's
609 security described in this Subsection (2) in:

610 (A) a hard copy format; or

611 (B) an electronic format using a mobile electronic device.

612 (ii) If a person provides evidence of owner's or operator's security in an electronic
613 format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing
614 the owner's or operator's security on the mobile electronic device may not view any other

615 content on the mobile electronic device.

616 (iii) Notwithstanding any other provision under this section, a peace officer is not
617 subject to civil liability or criminal penalties under this section if the peace officer inadvertently
618 views content other than the evidence of owner's or operator's security on the mobile electronic
619 device.

620 (e) (i) Evidence of owner's or operator's security from the Uninsured Motorist
621 Identification Database Program described under Subsection (2)(b)(vi) supercedes any
622 evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

623 (ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if
624 the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a,
625 Part 8, Uninsured Motorist Identification Database Program, information indicates that the
626 vehicle or driver is insured.

627 (3) It is an affirmative defense to a charge or in an administrative action under this
628 section that the person had owner's or operator's security in effect for the vehicle the person
629 was operating at the time of the person's citation or arrest.

630 (4) (a) The following are considered proof of owner's or operator's security for
631 purposes of Subsection (3) and Section [41-12a-804](#):

632 (i) evidence defined in Subsection (2)(b);

633 (ii) a written statement from an insurance producer or company verifying that the
634 person had the required motor vehicle insurance coverage on the date specified; or

635 (iii) a written statement from an insurance producer or company, or provision in an
636 insurance policy, indicating that the policy provides coverage for a newly purchased car and the
637 coverage extended to the date specified.

638 (b) The court considering a citation issued under this section shall allow the evidence
639 or a written statement under Subsection (4)(a) and a copy of the citation to be faxed or mailed
640 to the clerk of the court to satisfy Subsection (3).

641 (c) The notice under Section [41-12a-804](#) shall specify that the written statement under
642 Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to
643 satisfy the proof of owner's or operator's security required under Section [41-12a-804](#).

644 (5) A violation of this section is an infraction, and the fine shall be not less than:

645 (a) \$400 for a first offense; and

646 (b) \$1,000 for a second and subsequent offense within three years of a previous
647 conviction or bail forfeiture.

648 (6) Upon receiving notification from a court of a conviction for a violation of this
649 section, the department:

650 (a) shall suspend the person's driver license; and

651 (b) may not renew the person's driver license or issue a driver license to the person
652 until the person gives the department proof of owner's or operator's security.

653 (i) This proof of owner's or operator's security shall be given by any of the ways
654 required under Section [41-12a-401](#).

655 (ii) This proof of owner's or operator's security shall be maintained with the department
656 for a three-year period.

657 (iii) An insurer that provides a certificate of insurance as provided under Section
658 [41-12a-402](#) or [41-12a-403](#) may not terminate the insurance policy unless notice of termination
659 is filed with the department no later than 10 days after termination as required under Section
660 [41-12a-404](#).

661 (iv) If a person who has canceled the certificate of insurance applies for a license
662 within three years from the date proof of owner's or operator's security was originally required,
663 the department shall refuse the application unless the person reestablishes proof of owner's or
664 operator's security and maintains the proof for the remainder of the three-year period.

665 Section 29. **Coordinating H.B. 429 with H.B. 364 -- Substantive and technical**
666 **amendments.**

667 If this H.B. 429 and H.B. 364, Employment Law Amendments, both pass and become
668 law, it is the intent of the Legislature that Sections [34-53-101](#), [34-53-102](#), and [34-53-201](#) in this
669 bill supersede Sections [34-53-101](#), [34-53-102](#), and [34-53-201](#) in H.B. 364 when the Office of
670 Legislative Research and General Counsel prepares the Utah Code database for publication.